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MONTANA LEGISLATIVE HISTORY

Chapter 25 ~~19~~ 2003

Bill H 43 S _____ Original bill & history ✓ C

H. Committee on NATURAL RESOURCES			S. Committee on NATURAL RESOURCES		
Hearing Date(s) & EXEC. ACTION	1/10	X C	Hearing Date(s) & EXEC. ACTION	2/3	X C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

HOUSE BILL NO. 43

INTRODUCED BY J. COHENOUR

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT ASBESTOS CONTROL PERMIT FEES FOR EACH ANNUAL PERMIT REFLECT ACTUAL COSTS FOR THAT PERMIT; PROVIDING THAT FEES MUST BE COMMENSURATE WITH COSTS OF PERMIT ISSUANCE AND ADMINISTRATION; AMENDING SECTIONS 75-2-503 AND 75-2-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-2-503, MCA, is amended to read:

"75-2-503. Rulemaking authority -- issuance of permits. (1) The department shall, subject to the provisions of 75-2-207, adopt rules establishing standards and procedures for accreditation of asbestos-related occupations and control of the work performed by persons in asbestos-related occupations. The rules must be consistent with federal law and include but are not limited to:

(a) standards for training course review and approval;

(b) standards for accreditation of applicants for asbestos-related occupations;

(c) examination requirements for accreditation of applicants for asbestos-related occupations;

(d) requirements for renewal of accreditation, including periodic refresher courses;

(e) revocation of accreditation;

(f) inspection requirements for asbestos projects and asbestos-related occupations credentials;

(g) criteria to determine whether and what type of control measures are necessary for an asbestos project and whether a project is completed in a manner sufficient to protect public health, including criteria setting allowable limits on indoor airborne asbestos. A determination of whether asbestos abatement of a structure is necessary may not be based solely upon the results of airborne asbestos testing.

(h) requirements for issuance of asbestos project permits and conditions that permitholders shall meet;

(i) standards for seeking injunctions, criminal and civil penalties, or emergency actions;

(j) advance notification procedures and issuance of permits for asbestos projects; and

(k) fees, which must be commensurate with costs, for:

(i) review and approval of training courses;

(ii) application for and renewal of accreditation by a person seeking to pursue an asbestos-related occupation;

(iii) issuance and administration of asbestos project permits, including annual asbestos project permits for facilities; and

(iv) requested inspections of asbestos projects.

(2) For asbestos projects having a cost of $3,000 or less, the department shall issue asbestos project permits within 7 calendar days following the receipt of a properly completed permit application and the appropriate fee."

Section 2. Section 75-2-504, MCA, is amended to read:

"75-2-504. Facility permits ~~--- fee.~~ ~~(1)~~ The department shall provide by rule a procedure for the issuance of an annual asbestos project permit to any facility that has an asbestos health and safety program meeting department criteria and that continuously employs accredited asbestos workers. This permit allows a facility to conduct asbestos projects within the confines of the facility's controlled area during the period for which the permit is in force. The provisions of this permit may not preclude state and federal requirements for asbestos project notification.

~~(2) The fee for a facility permit must reflect the actual cost of the department's application review, permit issuance, and facility inspections.~~"

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

- END -

FISCAL NOTE

Bill #: HB0043 **Title:** Revise asbestos control act

Primary Sponsor: Cohenour, J **Status:** As Introduced

Sponsor signature Date 1-8-03 Chuck Swysgood, Budget Director Date 1/8/03

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:	$0	$0
Revenue:	$0	$0
Net Impact on General Fund Balance:	$0	$0

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☐ Technical Concerns
- ☐ Significant Long-Term Impacts
- ☐ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. Repeal of the requirement in 75-2-504(2), MCA, that fees for facility permits reflect actual cost will have no impact on overall revenue. Fees based on actual costs can be computed only at the end of the permit year. This is unacceptable to asbestos permittees, and the Department of Environmental Quality has complied with their request that the fees be estimated at the beginning of the year. This bill therefore would not change existing practice, but rather will change the law to meet existing practice.
2. The amendment to 75-2-503(1)(k)(iii), MCA, expands the activities that must be funded by project permits fees to include permit administration. Since current fees in the aggregate (permits, annual permits, accreditations and course reviews) are currently commensurate with costs of administering the entire program there will be no increase in total revenue caused by this amendment. The department monitors costs for each of the fee-funded activities and will adjust each fee as necessary to remain commensurate with costs. If the department determines that fees for project permits are not commensurate with cost for issuance and administration of permits, the project permit fee will be increased or decreased as appropriate and the other fees will also be adjusted as appropriate to maintain current revenues.

HB 43

Bill Draft Number: LC0346
Bill Type - Number: HB 43
Short Title: Revise asbestos control act
Primary Sponsor: Jill Cohenour

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 46

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	02/17/2003			
(H) Signed by Governor	02/13/2003			
(H) Transmitted to Governor	02/11/2003			
(S) Signed by President	02/11/2003			
(H) Signed by Speaker	02/10/2003			
(C) Sent to Printing	02/10/2003			
(H) Returned from Enrolling	02/10/2003			
(H) Sent to Enrolling	02/10/2003			
(S) Returned to House	02/08/2003			
(S) 3rd Reading Concurred	02/08/2003	49	0	
(S) Scheduled for 3rd Reading	02/08/2003			
(S) 2nd Reading Concurred on Voice Vote	02/07/2003	49	0	
(S) Scheduled for 2nd Reading	02/07/2003			
(S) Scheduled for 2nd Reading	02/06/2003			
(S) Committee Report--Bill Concurred	02/05/2003			(S) Natural Resources
(S) Committee Executive Action--Bill Concurred	02/05/2003	11	0	(S) Natural Resources
(S) Hearing	02/03/2003			(S) Natural Resources
(S) Referred to Committee	01/22/2003			(S) Natural Resources
(S) First Reading	01/22/2003			
(H) Transmitted to Senate	01/20/2003			
(H) 3rd Reading Passed	01/20/2003	99	0	
(H) Scheduled for 3rd Reading	01/20/2003			
(H) 2nd Reading Passed	01/17/2003	100	0	
(H) Scheduled for 2nd Reading	01/17/2003			
(H) Committee Report--Bill Passed	01/15/2003			(H) Natural Resources
(H) Committee Executive Action--Bill Passed	01/15/2003	18	0	(H) Natural Resources

(H) Hearing	01/10/2003	(H) Natural Resources
(H) Fiscal Note Printed	01/09/2003	
(H) Fiscal Note Received	01/08/2003	
(H) First Reading	01/06/2003	
(H) Referred to Committee	12/16/2002	(H) Natural Resources
(H) Fiscal Note Requested	12/11/2002	
(C) Introduced Bill Text Available Electronically	12/03/2002	
(H) Introduced	12/03/2002	
(C) Pre-Introduction Letter Sent	12/02/2002	
(C) Pre-Introduction Letter Sent	11/26/2002	
(C) Draft in Assembly/Executive Director Review	11/25/2002	
(C) Draft in Final Drafter Review	11/25/2002	
(C) Bill Draft Text Available Electronically	11/25/2002	
(C) Draft in Input/Proofing	11/25/2002	
(C) Draft to Drafter - Edit Review [CMD]	11/25/2002	
(C) Draft in Edit	11/22/2002	
(C) Draft in Legal Review	11/22/2002	
(C) Draft to Requester for Review	11/08/2002	
(C) Draft to Requester for Review	10/23/2002	
(C) Draft Request Received	07/31/2002	

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Environmental Quality Council	
Drafter	Everts	Todd
By Request Of	Department of Environmental Quality	
Primary Sponsor	Cohenour	Jill

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Environmental Protection		Simple	ENVP
Health (see also: Health Care Services; Safety)		Simple	HLTH

Additional Bill Information

Probable Fiscal Note: Yes
Preintroduction Required: Y
Session Law Ch. Number: 25
DEADLINE
Category: General Bills
Transmittal Date: 02/28/2003
Return (with 2nd house amendments) Date: 04/05/2003

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	13-FEB-03	

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN CINDY YOUNKIN**, on January 10, 2003 at 2:30 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Cindy Younkin, Chairman (R)
Rep. Gail Gutsche, Vice Chairman (D)
Rep. Jim Peterson, Vice Chairman (R)
Rep. Debby Barrett (R)
Rep. Larry Cyr (D)
Rep. Sue Dickenson (D)
Rep. Ron Erickson (D)
Rep. George Everett (R)
Rep. Kim Gillan (D)
Rep. Christopher Harris (D)
Rep. Carol Lambert (R)
Rep. Michael Lange (R)
Rep. Rick Maedje (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. John (Jack) W. Ross (R)
Rep. Scott Sales (R)
Rep. Veronica Small-Eastman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Larry Mitchell, Legislative Branch

Please Note: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A videotaped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 43, 12/03/02; HB 83, /03; HB 102, /03
Executive Action:	HB 43, DO PASS, 18-0
	HB 83, DO PASS, 18-0
	HB 85, TABLED
	HB 89, DO PASS, 11-7
	HB 102, DO PASS, 18-0

EXECUTIVE ACTION ON HB 85

Motion: 2:35 p.m. **REP. ERICKSON** moved that **HB 85 DO PASS.**

Motion/Vote: 2:35 p.m. **REP. NEWMAN** moved that **HB 85 BE TABLED. Motion passed unanimously** by voice vote.

EXECUTIVE ACTION ON HB 89

Motion: 2:38 p.m. **REP. BARRETT** moved that **HB 89 DO PASS.**

2:38 p.m. **Rep. Erickson**

2:39 p.m. **Rep. Lange**

2:39 p.m. **Rep. Lambert**

2:39 p.m. **Rep. Peterson**

2:41 p.m. **Rep. Ross**

2:42 p.m. **Rep. Newman**

2:44 p.m. **Rep. Malcolm**

2:45 p.m. **Rep. Harris**

2:46 p.m. **Rep. Lange**

2:47 p.m. **Rep. Younkin**

2:54 p.m. **Rep. Cohenour**

Motion/Vote: 2:55 p.m. **REP. ROSS** moved that **HB 89 BE TABLED. Motion failed 9-9 with REPS. GUTSCHE, CYR, DICKENSON, ERICKSON, EVERETT, GILLAN, NEWMAN, ROSS, and SMALL-EASTMAN voting aye** by roll call vote.

Motion/Vote: REP. ERICKSON moved **HB 89 DO PASS. Motion passed 11-7 with REPS.** CYR, **DICKENSON, ERICKSON, GILLAN, GUTSCHE, NEWMAN, and SMALL-EASTMAN voting no** by roll call vote.

HEARING ON HB 43

Sponsor: **REP. COHENOUR, HD 51, EAST HELENA**

Opening Statement by Sponsor:
2:54 p.m. **Rep. Cohenour**

Proponents' Testimony:
2:56 **Don Vidrine, Department of Environmental Quality (DEQ) EXHIBIT(nah05a01)**

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:
3:04 p.m. **Rep. Cohenour**

HEARING ON HB 102

Sponsor: REP. COHENOUR, HD 51, **EAST HELENA, MONTANA**

Opening Statement by Sponsor:
3:05 p.m. **Rep. Cohenour**

Proponents' Testimony:
3:05 p.m. **Tom Livers, Department of Environmental Quality**

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:
3:06 p.m. **REP. COHENOUR**

HEARING ON HB 83

Sponsor: REP. PETERSON, HD 95, **BUFFALO, MONTANA**

Opening Statement by Sponsor:
3:07 p.m. **Rep. Peterson**

Proponents' Testimony:
3:11 p.m. **Jack Stoltz, DEQ**
EXHIBIT(nah05a02)

3:14 p.m. **Thomas W. Patton, Groundwater Assessment Program**
EXHIBIT(nah05a03)

3:18 p.m. **Pat Burne, Chairman, BWWC**

Opponents' Testimony: None.

Questions from Committee Members and Responses:

3:20 p.m. **Rep. Lambert**

3:20 p.m. **Pat Burne**

3:21 p.m. **Rep. Lambert**

3:21 p.m. **Pat Burne**

Closing by Sponsor:
3:23 p.m. **REP. PETERSON**

EXECUTIVE ACTION ON HB 83

Motion/Vote: REP. PETERSON moved that **HB 83 DO PASS. Motion passed unanimously** by voice vote.

EXECUTIVE ACTION ON HB 102

Motion/Vote: REP. GUTSCHE moved that **HB 102 DO PASS. Motion passed unanimously** by voice vote.

EXECUTIVE ACTION ON HB 43

Motion/Vote: REP. GUTSCHE moved that **HB 43 DO PASS. Motion passed unanimously** by voice vote.

EXHIBIT 1
DATE 1-10-03
HB 43

Montana Department of
ENVIRONMENTAL QUALITY
Judy Martz, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.state.mt.us

Testimony in Support of HB 43
House Natural Resources Committee
January 10, 2003

The Montana Asbestos Control Act (Act) gives the Department of Environmental Quality (DEQ) authority to regulate the handling of asbestos in asbestos abatement projects. Asbestos abatement generally occurs during demolition or renovation projects where asbestos-containing material might be disturbed. Administrative rules adopted under the authority of this statute require accreditation of asbestos workers, require permitting of asbestos abatement projects, and establish appropriate asbestos abatement work practices.

The Act requires the DEQ to adopt rules governing the issuance of individual asbestos project permits (75-2-503(1)(h), MCA) and also provides for the issuance of annual asbestos project permits to facilities with asbestos health and safety plans and who continuously employed accredited asbestos workers (75-2-504(1), MCA).

Annual asbestos project permits allow a facility to conduct asbestos abatement projects as needed without having to obtain a separate permit for each individual project thus saving time and staff resources. Annual permit holders are larger facilities such as hospitals, universities, refineries, and large industrial wood products facilities. There were 8 annual permit holders in 2002.

The DEQ is seeking to amend the Act in response to a legislative audit. The auditor determined that the annual facility permit fees being assessed did not reflect the DEQ's actual cost for permit application review, permit issuance, and facility inspections as is required by current law (75-2-504(2), MCA).

If the DEQ were to implement this current provision of law, it would require significant time and effort to track actual costs associated with each permit. Since tracking expenditures would be an activity associated with permit issuance and administration, it would require additional fees just to support the tracking effort. The DEQ does not believe this additional expenditure would be of value to it, the public, or the regulated community.

Also, it is not possible to assess a facility fee that reflects actual cost of application review, permit issuance, and facility inspections until the permit term has ended. If the fee were not known until the end of a permit term, an applicant would not be able to make an informed decision about the value of obtaining a facility permit. The

DEQ cannot continue to set specific annual permit application fees and be in compliance with the current requirements of this section of law (75-2-504(2), MCA).

HB 43 would eliminate the requirement that fees for annual asbestos facility permits must reflect the actual cost of the DEQ's application review, permit issuance, and facility inspections. The proposed amendment would require the fee for annual asbestos project permits for facilities be commensurate with costs. The proposed amendment would also clarify that the fee for project permits be commensurate with the costs of issuance and administration of the permits

Using the standard that fees must be "commensurate" with costs of the program activity, instead of tying the fee to actual costs incurred by the DEQ related to a specific permit, would establish a fee that is predictable and equitable for all fee payers in this class. While the amount of resources devoted to regulation of a specific facility may vary from year to year, over time each of the annual facility permit holders generate approximately the same amount of regulatory effort and should pay a commensurate fee.

The DEQ has established specific organization units to track expenditures associated with activities for which fees must be assessed. The DEQ will continue to track annual permit fee revenue and expenditures and will adjust fees through administrative rulemaking, as necessary, to remain commensurate with costs.

The changes proposed in the legislation will have no impact on total fee revenue collected by the DEQ for support of the Asbestos Program.

Testimony provided by Don Vidrine
Department of Environmental Quality
Ph. 444-2467

HOUSE OF REPRESENTATIVES

Roll Call
NATURAL RESOURCES COMMITTEE

DATE 1-10-03

NAME	PRESENT	ABSENT	EXCUSED
REP. CINDY YOUNKIN, CHAIRMAN	✓		
REP. JIM PETERSON, VICE CHAIR, MAJORITY	✓		
REP. GAIL GUTSCHE, VICE CHAIR, MINORITY	✓		
REP. DEBBY BARRETT	✓		
REP. LARRY CYR	✓		
REP. SUE DICKENSON	✓		
REP. RON ERICKSON	✓		
REP. GEORGE EVERETT	✓		
REP. KIM GILLAN	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. CAROL LAMBERT	✓		
REP. MIKE LANGE	✓		
REP. RICK MAEDJE	✓		
REP. BRUCE MALCOLM	✓		
REP. BRAD NEWMAN	✓		
REP. JACK ROSS	✓		
REP. SCOTT SALES	✓		
REP. VERONICA SMALL-EASTMAN	✓		

HOUSE STANDING COMMITTEE REPORT

January 13, 2003

Mr. Speaker:

We, your committee on Natural Resources recommend that **House Bill 43** (first reading copy -- white) **do pass.**

Signed: _____
Representative Cindy Younkin, Chair

- END -

Committee Vote:
Yes 18, No 0.

060817SC.hhn

Montana House of Representatives
Visitors Register

NATURAL RESOURCES COMMITTEE Date 1/10/03

Bill No. HB 43 Sponsor(s) J Cobenour

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Don Vidrine, Helena	DEQ	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on February 3, 2003 at 3:10 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bill Tash, Chairman (R)
Sen. Aubyn Curtiss, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Gregory D. Barkus (R)
Sen. Jon Ellingson (D)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Dan McGee (R)
Sen. Gary L. Perry (R)
Sen. Glenn Roush (D)
Sen. Ken Toole (D)

Members Excused: Sen. Debbie Shea (D)

Members Absent: None.

Staff Present: Shirley Herrin, Committee Secretary
Krista Lee Evans, Legislative Branch

Video-taped Committee: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing & Date Posted: HB 43, 1/30/2003; HB 102, 1/30/2003
Executive Action: SB 130, HB 102, HB 43, SB 244

EXECUTIVE ACTION ON SB 130

Motion: **SEN. MCGEE** moved that **SB 130 DO PASS.** He presented the amendments SB 13002.akl **EXHIBIT(nas23a01)** and the grey bill. Krista Lee Evans explained the amendments.

Discussion:
3:15 Begin
3:25 Ended
10 min Time elapsed

Motion: **SEN. MCGEE** moved the amendments listed above.

Discussion:
3:27 Krista Lee Evans further explained the amendments.
3:29 Ended
2 min Time elapsed.

Vote: Motion **carried 11-0.**

Motion/Vote: **SEN. MCGEE** moved that **SB 130 DO PASS AS AMENDED.** **Motion carried 11-0.**

HEARING ON HB 43

Opening Statement by Sponsor: REP. JILL COHENOUR, HD 51, Helena
3:32 "Revise asbestos control act".

Proponents' Testimony:
3:34 Don Vidrine, DEQ **EXHIBIT(nas23a02)**

Opponents' Testimony:
3:38 None

Questions from Committee Members and Responses:
3:39 Begin
3:42 Ended
3 min Time elapsed

Closing by Sponsor: REP. COHENOUR closed on HB 43 .

HEARING ON HB 102

Opening Statement by Sponsor: REP. JILL COHENOUR, HD 51, Helena
3:42 "Revise radon control act".

Proponents' Testimony:
3:42.5 Art Compton, DEQ, available to answer questions.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:
3:45 **REP. COHENOUR** closed on HB 102.

EXECUTIVE ACTION ON HB 102

Motion/Vote:
3:46 **SEN. MCCARTHY** moved that **HB 102 BE CONCURRED IN. Motion carried 11-0.**

EXECUTIVE ACTION ON HB 43

Motion/Vote:
3:47 **SEN. BARKUS** moved that **HB 43 BE CONCURRED IN. Motion carried 11-0.**

3:48 The meeting was recessed to wait for REP. ALAN OLSON to present HB 89.
4:45 The meeting was reconvened - REP. OLSON did not attend the hearing. SEN. MC CARTHY was excused at this point.

EXECUTIVE ACTION ON SB 244

Motion: SEN. MC GEE moved that **SB 244 DO PASS.** He then moved the amendments SB024401.akl **EXHIBIT(nas23a03)**

Discussion:
4:46 Begin
4:58 Ended
12 min Time elapsed

Vote: Motion **carried 9-1 with TOOLE voting no.**

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE FEB. 3 2003
BILL NO. HB 43

Montana Department of
ENVIRONMENTAL QUALITY

Judy Martz, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.state.mt.us

Testimony in Support of HB 43
Senate Natural Resources Committee
February 3, 2003

The Montana Asbestos Control Act (Act) gives the Department of Environmental Quality (DEQ) authority to regulate the handling of asbestos in asbestos abatement projects. Asbestos abatement generally occurs during demolition or renovation projects where asbestos-containing material might be disturbed. Administrative rules adopted under the authority of this statute require accreditation of asbestos workers, require permitting of asbestos abatement projects, and establish appropriate asbestos abatement work practices.

The Act requires the DEQ to adopt rules governing the issuance of individual asbestos project permits (75-2-503(1)(h), MCA) and also provides for the issuance of annual asbestos project permits to facilities with asbestos health and safety plans and who continuously employed accredited asbestos workers (75-2-504(1), MCA).

Annual asbestos project permits allow a facility to conduct asbestos abatement projects as needed without having to obtain a separate permit for each individual project thus saving time and staff resources. Annual permit holders are larger facilities such as hospitals, universities, refineries, and large industrial wood products facilities. There were 8 annual permit holders in 2002.

The DEQ is seeking to amend the Act in response to a legislative audit. The auditor determined that the annual facility permit fees being assessed did not reflect the DEQ's actual cost for permit application review, permit issuance, and facility inspections as is required by current law (75-2-504(2), MCA).

If the DEQ were to implement this current provision of law, it would require significant time and effort to track actual costs associated with each permit. Since tracking expenditures would be an activity associated with permit issuance and administration, it would require additional fees just to support the tracking effort. The DEQ does not believe this additional expenditure would be of value to it, the public, or the regulated community.

Also, it is not possible to assess a facility fee that reflects actual cost of application review, permit issuance, and facility inspections until the permit term has ended. If the fee were not known until the end of a permit term, an applicant would not be able to make an informed decision about the value of obtaining a facility permit. The

DEQ cannot continue to set specific annual permit application fees and be in compliance with the current requirements of this section of law (75-2-504(2), MCA).

HB 43 would eliminate the requirement that fees for annual asbestos facility permits must reflect the actual cost of the DEQ's application review, permit issuance, and facility inspections. The proposed amendment would require the fee for annual asbestos project permits for facilities be commensurate with costs. The proposed amendment would also clarify that the fee for project permits be commensurate with the costs of issuance and administration of the permits

Using the standard that fees must be "commensurate" with costs of the program activity, instead of tying the fee to actual costs incurred by the DEQ related to a specific permit, would establish a fee that is predictable and equitable for all fee payers in this class. While the amount of resources devoted to regulation of a specific facility may vary from year to year, over time each of the annual facility permit holders generate approximately the same amount of regulatory effort and should pay a commensurate fee.

The DEQ has established specific organization units to track expenditures associated with activities for which fees must be assessed. The DEQ will continue to track annual permit fee revenue and expenditures and will adjust fees through administrative rulemaking, as necessary, to remain commensurate with costs.

The changes proposed in the legislation will have no impact on total fee revenue collected by the DEQ for support of the Asbestos Program.

Testimony provided by Don Vidrine
Department of Environmental Quality
Ph. 444-2467

SENATE
NATURAL RESOURCES COMMITTEE
ROLL CALL

DATE FEBRUARY 3, 2003

MEMBER	ASSIGNMENT	PRESENT	EXCUSED	ABSENT
Sen. Bill Tash	Chairman	✓		
Sen. Sherm Anderson	Member	✓		
Sen. Greg Barkus	Member	✓		
Sen. Jon Ellingson	Member	✓		
Sen. Rick Laible	Member	✓		
Sen. Bea McCarthy	Member	✓		
Sen. Dan McGee	Member	✓		
Sen. Gary Perry	Member	✓		
Sen. Glenn Roush	Member	✓		
Sen. Debbie Shea	Member		✓	
Sen. Ken Toole	Member	✓		
Sen. Aubyn Curtiss	Vice Chair	✓		

SENATE STANDING COMMITTEE REPORT

February 4, 2003

Mr. President:

We, your committee on **Natural Resources** recommend that **House Bill 43** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator Bill Tash, Chair

To be carried by Senator Gary Perry

- END -

Committee Vote:
Yes 11, No 0.

240843SC.ssc

DATE Jan. 03, 2003

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB43 ~ HB89

HB102 ~

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Don Vidrine	444-2467	DEQ	HB43	✓	
Mike Murphy	235-4555	MT. Water Res. Assn	HB89	✓	
Patrick Pyn Tom Melvgnulos		Fidelity	HB89	✓	
Gail Abercrombie	442-7582	MT Petroleum Assn	HB89	✓	
Jeff Babe	443-2520	MEIC	HB89		X
Steve Rose	683-2763	UM-Western	HB89		
Don Allen	443-5511	WETA	HB89	✓	
John Youngberg		Mt. Farm Bureau	HB89	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY